



U.S. Citizenship
and Immigration
Services

FILE:

Office: TEXAS SERVICE CENTER

Date:

OCT 08 2004

IN RE:

Petitioner:

Beneficiary

PETITION:

Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner is a subsidiary church of the Church of Scientology International. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as an auditor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as an auditor immediately preceding the filing date of the petition. The director further found that the beneficiary's work does not constitute a qualifying religious occupation or religious vocation.

The petitioner contends that the beneficiary is a member of the Sea Organization (Sea Org), the religious order of the Church of Scientology. From the descriptions offered, we conclude that the Sea Org does qualify as a religious order and that individuals who have attained full, permanent membership in the Sea Org qualify as individuals engaged in a religious vocation. If the petitioner could credibly demonstrate that the beneficiary joined the Sea Org as a full, permanent member more than two years prior to the petition's September 24, 2002 filing date, then the petitioner would appear to have overcome the grounds for denial cited in the director's decision of August 12, 2003.

The initial documentation submitted concurrently with the petition included an affidavit from Rev. Mary Story, vice president of the petitioning entity. Rev. Story stated:

[The beneficiary] is a member of the Sea Organization. . . . Members of this religious order take vows of eternal service to the Scientology religion. They each sign a billion year contract, which is a document that formalizes and signifies the Sea Organization member's individual commitment to the goals, purposes and principals [sic] of the Scientology religion. . . . A copy of her Sea Organization vows is attached hereto.

Elsewhere in her affidavit, Rev. Story states "[i]n February 1997, [the beneficiary] . . . took religious vows of the . . . 'Sea Organization.'" The only attached document that had any apparent relation to the above assertions is a copy of a "Contract of Employment" (Contract) with the Sea Org. The beneficiary and two witnesses signed the Contract on February 26, 1997.

Since that time, the petitioner has submitted documentation such as an essay entitled "A Contemporary Ordered Religious Community: The Sea Organization," by J. Gordon Melton. The essay, available online at <http://www.cesnur.org/2001/london2001/melton.htm> and published as a chapter in *New Religious Movements and Religious Liberty in America* (Derek H. Davis and Barry Hankins, eds., 2nd ed., 2003), is not an official church document, but by submitting this essay, with no disclaimers or clarifications, the Church of Scientology has effectively endorsed the statements therein. Mr. Melton states:

The process of joining the Sea Org has become somewhat institutionalized. In most instances, it begins with a public meeting in a Scientology church facility in which a Sea Org representative presents a profile of the work of the organization and invites interested attendees to consider joining. . . .

At the close of the meeting, those who express an interest in the Sea Org are invited to consider making an initial commitment in the form of signing what has come to be known as

the billion-year "commitment." This brief document is actually a letter of intent of offering oneself for service in the Sea Org and to submit to its rules. . . .

After the signing of the commitment document, which is largely of symbolic import, the individual is given a period of time to consider their decision. . . . I have talked to members who waited as long as three or, in one instance, even six years before taking the next step which is to report to the Sea Org's induction program, called the Estates Project Force (EPF). . . .

The completion of the EPF program takes from two weeks to several months. . . . Included in the program is a rigorous daily routine of work and study that introduces people on an experiential level to the nature of the commitment being asked of them. . . .

Following the completion of the EPF program, the recruit makes a final decision to continue, church personnel make a final assessment of the recruit's worth to the organization, and the person is accepted into the Sea Org. If the person has not already done so, he or she now participates in a formal swearing-in ceremony that includes the reading of the "Code of a Sea Org Member," sentence-by-sentence, and his or her verbal assent to each clause. . . .

Each Sea org [sic] member reaffirms that acceptance in a formal ceremony annually on 12 August, the anniversary of the founding of the Organization.

The above essay indicates that the billion-year Contract is largely symbolic, and that signing it does not make the signer a member of the Sea Org. Rather, the essay states that one is not a Sea Org member until after one has completed the EPF program and ceremonially read the "Code of a Sea Org Member" (Code).

In this instance, the petitioner's initial submission made no mention of the EPF program, and no mention of the Code. Instead, Rev. Story stated only that the beneficiary "took religious vows" "[i]n February 1997." Rev. Story specifically referred to a copy of the beneficiary's Contract as "a copy of her Sea Organization vows." Thus, the petitioner originally represented the beneficiary's Contract as self-sufficient, *prima facie* evidence of the beneficiary's membership in the Sea Org. Only much later has the petitioner stipulated for the record that signing the Contract is *not* sufficient proof of membership, and that additional steps *must* be taken before an individual can become a true Sea Org member.

The petitioner has also submitted copies of the "Declaration of Religious Commitment and Membership in the Sea Organization" (Declaration), which is considerably more involved than the billion-year Contract. The Declaration contains several clauses that spell out the nature of the member's obligations to the church.¹ In past decisions, involving other beneficiaries, the AAO had determined that execution of the Declaration is essentially the final step in joining the Sea Org. In the petitioner's latest submission, Samuel Scelza, a personnel officer for

¹ The "Declaration of Religious Commitment and Membership in the Sea Organization, a Scientology Religious Order" includes a "Pledge of Religious Commitment" which states, in part, "each Sea Organization member considers himself/herself a volunteer to create a better world, and understands that he/she is not an employee, i.e., is not entitled to receive secular benefits such as minimum wage or overtime compensation." The assertion that a Sea Org member "is not an employee" appears to conflict with the "Contract of Employment," which refers to "employment" both in its title and in the body of its text. As noted above, the essay "The Sea Organization" states that members "must . . . meet any employment laws of the land," which is another reference to "employment." The Church of Scientology is, therefore, inconsistent regarding whether or not Sea Org members are "employed" by that organization.

the petitioning entity, states that the Declaration "is not one of the required steps for full membership in the Sea Organization and is certainly not a defining factor on who is a Sea Org member and who is not." Mr. Scelza states:

The process of becoming a member of the Sea Organization is highly demanding and includes the following:

- a) Application: The application procedure includes a list of basic qualifications which excludes anyone whose past history or present circumstances would make them unsuited or unsuitable to the religious life.
- b) Initial Interview: The applicant is interviewed by a Sea Org member and advised of the commitment and dedication required, and interviewed to further verify basic qualifications.
- c) Lifetime vow: The applicant signs the "Sea Org Contract," making a lifetime vow to serve the religion. This does not make the person a Sea Org member. It allows the person to enter as a novice.
- d) "Project Prepare": In most cases, the applicant works out a preparatory project of specific tasks that must be completed before he can commence his vocation. This usually involves the settling of any ongoing obligations and responsibilities. In some cases this may take a few weeks. In other cases, it may take years.
- e) Provisional status as a novice – the "Estates Project Force": The first step for every applicant when he or she arrives to begin his vocation in the Sea Org is a program called the "Estates Project Force," or "EPF." . . .
- f) Fitness Board: Before graduating from the EPF, every novice's acceptance into the Sea Org must be individually reviewed by a Fitness Board normally composed of the Chaplain and four other church executives (all Sea Org members). Any with superficial or incomplete commitment are not accepted. Any whose progress in scriptural studies is inadequate are not accepted. Those who are accepted graduate from the EPF, affirm their vows in a "swearing-in" ceremony, and commence their duties as full Sea Org members.

The sequence and form of these steps may vary slightly. . . . Regardless of the sequence, these elements will always be present.

The petitioner has, over the course of several petitions, offered inconsistent or incomplete assertions regarding the process of joining the Sea Org. In one instance, the petitioner submitted a Contract signed by a six-year-old child, and represented that individual as a member of the Sea Org. The record of proceeding in that case did not contain any mention of the other five steps listed above, let alone evidence that the alien in question had actually completed any of those "elements [that] will always be present." The AAO has adjudicated a number of petitions involving the Sea Org, and the newly-submitted supplement to the record in this petition is the first time that the petitioner has mentioned "Project Prepare," a step not mentioned in J. Gordon Melton's essay (previously represented as authoritative).

In the present proceeding, as noted above, the beneficiary signed her Sea Org Contract on February 26, 1997. On appeal, the beneficiary states that she completed her EPF program "in April 1997." The petitioner submits copies of the following certificates issued to the beneficiary after she signed her Contract:

Welcome To The Sea Org	March 5, 1997
Sea Org Intro to Scientology Ethics	March 18, 1997
Basic Sea Org Member Hat	March 31, 1997
Personal Grooming Course	April 3, 1997

None of these certificates mentions the EPF or specifically notes the beneficiary's completion of that program. The beneficiary states that she completed the EPF program in April 1997, but the only certificate dated during that month relates to a "Personal Grooming Course."

The Church of Scientology has issued a substantial number of certificates to the beneficiary since the 1990s, and continued to do so after she is said to have joined the Sea Org in 1997. Given the church's issuance of these certificates, its retention of copies thereof, and its inconsistent or incomplete statements regarding the process of joining the Sea Org, it is reasonable for us to require the petitioner to provide the following:

1. A demonstrably *complete* list of the steps involved in joining the Sea Organization.
2. Documentary (rather than testimonial) evidence to corroborate the accuracy of the above list.
3. A *complete* list of *all* certificates, contracts, and other documents directly relevant to the process of joining the Sea Org, that are issued to prospective members or maintained in church archives.
4. Copies of *all* such certificates issued to this particular beneficiary, as proof that the beneficiary had, in fact, completed all of the necessary steps no later than September 24, 2000.

The above documentation, if submitted, could establish the beneficiary's eligibility. More broadly, by providing the information listed on lines 1 through 3 as a baseline, it will be possible to determine which beneficiaries have in fact completed *all* of the necessary steps required to join, fully and permanently, the Sea Org. The director should instruct the petitioner to provide the above information not only to the director, but also directly to the AAO.

The petitioner has indicated that it employs some 1,700 workers, all of whom are said to be Sea Org members. Given this substantial size, it is not reasonable to presume that Rev. Mary Story or any other official would have detailed, reliable, personal knowledge of the histories and qualifications of every worker at the petitioning facility. Pursuant to 8 C.F.R. § 103.2(b)(2)(i), we need not accept affidavits as evidence unless the petitioner has credibly demonstrated and explained the absence of both primary and secondary documentation.

We note, again, that the petitioner has, in the past, represented the signed Sea Org Contract as *prima facie* evidence of membership, although the petitioner now admits that "the 'Sea Org Contract' . . . does not make the person a Sea Org member." Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988).

The petitioner now claims that there are six steps involved in joining the Sea Org. Any proceeding in which the petitioner cannot provide *documentary* evidence that the beneficiary has completed *all* of these steps will lead to a finding that the beneficiary in question is not a member of the Sea Organization.

Therefore, this matter will be remanded. The director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, regardless of the outcome, is to be certified to the Administrative Appeals Office for review.